

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK L.H. TUCKER SHARP,

Plaintiff

v.

GRANITE CONSTRUCTION, et al.,

Defendants

Case No.: 3:22-cv-00098-MMD-CSD

Order

Plaintiff is an inmate within the Washoe County Detention Facility. He has filed a document seeking an extension of time to file a civil action and pay the fees. (ECF No. 1-1.)

“A civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3.

In addition, the Local Rules of Practice for the District of Nevada provide: “Any person who is unable to prepay the fees in a civil case may apply to the court for authority to proceed *in forma pauperis* (IFP). The application must be made on the form provided by the court and must include a financial affidavit disclosing the applicant’s income, assets, and liabilities.” LSR 1-1.

When a prisoner seeks to proceed without prepaying the filing fee, in addition to filing the affidavit, the prisoner is required to submit a certified copy of the trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the filing of the complaint. The statement must be obtained from the appropriate official at the prison or detention facility where the prisoner is or was confined. 28 U.S.C. § 1915(a)(2).

When an inmate brings a civil action IFP, the inmate is still required to pay the full amount of the filing fee. The court is required to assess, and when funds exist, collect an initial partial payment of 20 percent of the greater of: (A) the average monthly deposits in the prisoner’s account or (B) the average monthly balance in the prisoner’s account for the six-

1 month period immediately preceding the filing of the complaint. Thereafter, whenever the
2 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
3 preceding month's income credited to the prisoners account until the filing fees are paid. The
4 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
5 (2).

6 The regular filing fee is \$402, consisting of the \$350 filing fee and a \$52 administrative
7 fee. If an inmate does not qualify for IFP status, he must pay the full \$402 filing fee. If the
8 inmate qualifies for IFP status, the \$52 administrative fee is waived, and the inmate will only pay
9 the \$350 filing fee over time.

10 Plaintiff's filing was not accompanied by an IFP application or the \$402 filing fee
11 (consisting of the \$350 filing fee and \$52 administrative fee).

12 Plaintiff's request to extend the time to file a civil action and pay the fees (ECF No. 1-1)
13 is **DENIED**.

14 The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP
15 for an inmate. Plaintiff has **30 days** from the date of this Order to either file his completed IFP
16 application and financial certificate or pay the full \$402 filing fee. Plaintiff must also file a
17 complaint within **30 days**.

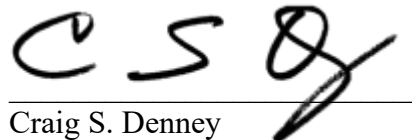
18 Once Plaintiff has filed his completed IFP application and financial certificate or paid the
19 filing fee, and has filed a complaint, the court will screen the complaint pursuant to 28 U.S.C.
20 § 1915(e)(2)(B) or 28 U.S.C. § 1915A, or both. Both require dismissal of a complaint, or any
21 portion thereof, that is frivolous or malicious, fails to state a claim upon which relief may be
22 granted, or seeks monetary relief against a defendant who is immune from such relief. If the
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1 complaint is dismissed on screening, there will be no refund of the filing fee, and an inmate
2 proceeding IFP is still required to pay the \$350 filing fee over time.

3 If Plaintiff fails to timely comply with this Order, the court will recommend dismissal of
4 this action without prejudice.¹

5 **IT IS SO ORDERED.**

6 Dated: February 28, 2022

7 
8 Craig S. Denney
United States Magistrate Judge

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22 ¹ Plaintiff filed a similar request in case 3:22-cv-00071-MMD-CSD, against Capurro Trucking,
23 which the court also denied. (ECF No. 3 in 3:22-cv-00071-MMD-CSD.) Plaintiff was not housed
in the Washoe County Detention Facility at that time, but should note that given his current
detention he should file an IFP application for an inmate if he seeks to obtain IFP status in that
case as well.